

CLARISSE L. CRISOSTOMO, Bar No. 15526

Email: [clarisse@nv-lawfirm.com](mailto:clarisse@nv-lawfirm.com)

**ATKINSON LAW ASSOCIATES LTD.**

376 E Warm Springs Rd Suite 130

Las Vegas, NV 89119

Telephone: (702) 614-0600

*Attorney for Robert E. Atkinson, Trustee*

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEVADA**

In re:

INFINITY CAPITAL MANAGEMENT, INC.  
*dba* INFINITY HEALTH CONNECTIONS,

Debtor.

Case No. 21-14486-abl  
Chapter 7

ROBERT E. ATKINSON;

Plaintiff,

v.

AMERICAN EXPRESS KABBAGE, INC.;

Defendant.

Adv. No. 21-01212-abl

**FIRST AMENDED  
ADVERSARY COMPLAINT**

ROBERT E. ATKINSON, in his capacity as chapter 7 trustee of the above-captioned bankruptcy estate, by and through counsel, respectfully submits this adversary complaint against the above-captioned defendant, and specifically alleges as follows.

**JURISDICTION and VENUE**

1. This adversary proceeding arises out of (and is related to) the chapter 7 bankruptcy case In re: INFINITY CAPITAL MANAGEMENT, INC. *dba* INFINITY HEALTH CONNECTIONS, Nevada bankruptcy case no. 21-14486-abl (the “***Bankruptcy Case***”).

2. This proceeding is brought pursuant to Fed. R. Bankr. P. 7001.

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334.

4. This action is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (F), because this Complaint is brought directly in the course of administration of the assets of the estate, and because it is a proceeding to avoid and recover transfers.

5. If this adversary proceeding is determined to be noncore, or if this adversary proceeding is a core proceeding under 28 U.S.C. § 157(b) but may not, as a constitutional matter, be adjudicated as such, the Trustee consents to the entry of final orders or judgments by the bankruptcy judge.

## PARTIES

8. Defendant AMERICAN EXPRESS KABBAGE, INC. (“**Defendant**”) is a Delaware corporation.

9. On Petition 14, 2021 (“*Petition Date*”), debtor INFINITY CAPITAL MANAGEMENT, INC. *dba* INFINITY HEALTH CONNECTIONS (“*Debtor*”) filed a voluntary chapter 7 bankruptcy petition, thereby initiating the Bankruptcy Case and creating the Bankruptcy Estate.

11. The Post-Petition Transfer occurred because of an ACH withdrawal initiated by Defendant.

13. The Post-Petition Transfer was not authorized under title 11 of the United States Code, or by the Bankruptcy Court.

**FIRST CAUSE OF ACTION:**

1  
2 15. Plaintiff repeats and re-alleges all of the above allegations, and thereby  
3 incorporates the same as if set forth fully herein.

4 16. Section 549(a) of the Bankruptcy Code provides that the Trustee may avoid a  
5 transfer of property of the estate that occurs after the commencement of the case and that is  
6 authorized only under section 303(f) or 542(c) or that is not authorized under this title or by the  
7 court.

8 17. The Post-Petition Transfer occurred after the commencement of the Bankruptcy  
9 Case.

10 18. The Post-Petition Transfer was not authorized under section 303(f) or 542(c) of  
11 the Bankruptcy Code, or any other section of the Bankruptcy Code, or by the Court.

12 19. No new value was received by Debtor from Defendant in exchange for the Post-  
13 Petition Transfer.

14 20. The Post-Petition Transfer made by Debtor to Defendant was made as satisfaction  
15 of a debt that existed prior to the Petition Date.

16 21. All elements of 11 U.S.C. § 549(a) are satisfied. The Trustee is therefore entitled  
17 to avoid the Petition Transfer made to Defendant.

18 22. Furthermore, 11 U.S.C. § 550(a)(1) provides that, to the extent that transfers are  
19 avoided under 11 U.S.C. § 549, the Trustee may recover the transferred property, or the value  
20 thereof, from the initial transferee.

21 23. Accordingly, the Trustee is entitled to a judgment against Defendant to recover  
22 the total amount of the Post-Petition Transfer, i.e., \$9,056.09.

23 # # # # #

24 WHEREFORE, Plaintiff prays for judgment, in favor of Plaintiff and against the Defendant,  
25 as follows:

- 26
- 27 • On the First Cause of Action, for avoidance and recovery of the Post-Petition  
28 Transfer, i.e. a monetary judgment in the amount of \$9,056.09.
  - Costs of suit.

# # # # #

1 DATED: December 22, 2021

ATKINSON LAW ASSOCIATES LTD.

2 By: /s/ Clarisse L. Crisostomo

3 CLARISSE L. CRISOSTOMO, ESQ.

4 Nevada Bar No. 15526

*Attorney for Robert E. Atkinson, Trustee*